

Appl. No. 10/800,555
Amdt. dated 10/19/2005
Response to Office Action of 07/28/2005

Attorney Docket No.: N1085-00267
TSMC2003-1135

REMARKS/ARGUMENTS

Claims 1-19 were previously pending in this application and each of claims 1-19 has been rejected. Applicants respectfully request re-examination, reconsideration and allowance of each of pending claims 1-19.

5 In paragraph 1 of the subject Office Action, claims 1-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hendricks, USPN 5,826,345 in view of Smith, US Pat Publ. 2003/0205292. Applicants respectfully submit that these claim rejections are overcome for reasons set forth below.

10 Claims 1-19 include independent claims 1, 11, and 17. The present invention provides the advantage of a compact, parallel ruler. The top surface of the measurement device is parallel to and disposed over the surface that the measurement device is used to measure. The measurement devices – the gauges and measurement indicators, do not extend above the upper surface of the flat part of the ruler. In other words, the gauges and measurement indicators are disposed within or beneath the flat
15 part. In fact, no component of the parallel ruler extends the upper surface, which forms the uppermost portion of exemplary parallel ruler, a level above which no component of the parallel ruler extends, enabling the device to be utilized in tight quarters with minimal clearance. These features increase the versatility of the claimed measurement device. In particular, independent device claim 1 recites the feature of:

20 a plurality of gauges disposed in the flat portion and not extending above the upper surface.

Similarly, independent method claim 11 recites the feature of:

25 disposing a parallel ruler over a plane, the parallel ruler comprising a frame and a plurality of gauges disposed in a flat portion of the frame, the gauges including measurement indicators that do not extend above an upper surface of the flat portion.

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Independent claim 17 recites the feature of:

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the parallel ruler comprising a . . . plurality of gauges disposed in a flat portion of the gauge house hosting structure, the gauges including measurement indicators that do not extend above a planar upper surface of the flat portion.

Each of independent claims 1, 11, and 17 also recite that the gauges have . . .

compressible parts protruding downward beyond a lower surface.

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The Examiner concedes that Hendricks does not disclose the advantageous feature that the gauges do not extend above the flat surface as claimed, but alleges that "Smith discloses how a distance measuring dial gauge 10 may be mounted in a flat surface 20 and not extending above the upper surface of the flat portion ..." and that, "Therefore it would have been obvious at the time the invention was made to mount gauges in the manner taught by Smith in the upper surface of the Hendricks device for the purpose of preventing the gauges from interfering with a piece of work placed on top of the Hendricks device".

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Applicants respectfully disagree for the following reasons:

*There is No Motivation to Combine the References

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Applicants respectfully disagree with the above Examiner's reasoning because Hendricks and Smith are non-analogous art and there would be no motivation to combine the two references, much less a motivation to combine them in the manner suggested by the Examiner.

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Hendricks is directed to a leveling device. Smith, in contrast, is directed to a power tool such as a router or saw having a work surface upon which a workpiece is machined, i.e. cut, and provides a gauge for measuring movement of the power tool. The gauge in Smith measures a degree of rotation of a shaft turned by a gear having a

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rotational position determined by the distance a carriage is positioned below the work surface, above which a cutting implement is used to cut a workpiece. Smith is not directed to measuring the planarity of a plane as is the claimed invention and Hendricks.

Applicants respectfully submit that there would be no motivation for one of
5 ordinary skill and in possession of the Hendricks reference, directed to measuring the level of a plane upon which the measurement device rests, to look to a non-analogous reference directed to a power tool such as a router or saw and to combine the teachings with those of Hendricks, especially after noting that Smith uses a turning gear to indirectly measure the distance that a moving carriage is suspended below a work
10 surface. More particularly, it would not be obvious that one of ordinary skill in the art would look to such a power tool reference to garner the idea of installing gauges having compressible parts protruding downward from the frame, into the surface of the frame.

There is no motivation to combine the references which are non-analogous art.

*The Combined Teachings do not Produce or Suggest the Claimed Invention

15 Furthermore, if one in possession of the Hendricks reference, did examine the Smith reference, there is no teaching or suggestion in the Smith reference as to how to achieve the claimed invention because the Smith gauge is positioned in the surface to accommodate the needle/gauge that rotates along with a gear/shaft disposed
20 orthogonal to the surface, beneath the work surface and directly mechanically coupled to the gauge/needle. The mechanical Smith gauge is positioned in the surface ostensibly because the rotational motion that turns the needle is in a plane parallel to the surface. Thus, the gauges of Smith are simply disposed in the most mechanically favorable orientation. This reference therefore provides no teaching as to how to dispose a gauge in a surface *wherein the gauges have compressible moving parts that*
25 *move in a downward direction.* The claimed invention, in contrast to Smith, provides gauges having compressible parts protruding downward and only because of

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Applicants' invention, provides the advantage that such gauges are disposed within, and do not extend above, an upper surface.

As such, even if one skilled in the art attempted to combine the references of Hendricks and Smith, the claimed invention would not be the result.

5 The rejection of independent claims 1, 11, and 17 under 35 U.S.C. § 103(a) as
being unpatentable over Hendricks, USPN 5,826,345 in view of Smith, US Pat Publ.
2003/0205292, should therefore be withdrawn. By reason of their dependency from the
amended independent claims distinguished as above, each of dependent claims 2-10,
12-16 and 18 are also distinguished from Hendricks in view of Smith and therefore the
10 rejection of these claims under 35 U.S.C. § 103(a) should similarly be withdrawn.

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CONCLUSION

Based on the foregoing, each of claims 1-19 is in allowable form and the application therefore in condition for allowance, which action is expeditiously and respectfully requested.

5 The Assistant Commissioner for Patents is hereby authorized to charge any fees or credit any excess payment that may be associated with this communication to Deposit Account 04-1679.

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Respectfully submitted,



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Mark J. Marcelli, Reg. No. 36,593
Attorney for Applicants

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20 DUANE MORRIS LLP
101 West Broadway, Suite 900
San Diego, CA 92101
Telephone: (619) 744-2200
Facsimile: (619) 744-2201